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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/740,965

12/21/2000

John Robert Davies

PT-1673004

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EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

08/07/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/740,965 | DAVIES ET AL. | |
| | Examiner | Art Unit | |
| | Jerry Redman | 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-57 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-57 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of the claims is as follows:

Claims 1-18 have been cancelled; and

Claims 19-57 (41-57 newly added) are herein addressed below.

The applicant is reminded that depending on amendments made in the future, a restriction may be necessary since the applicant has numerous embodiments disclosed.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan (2,235,295) in view of Kramer (3,842,890). Morgan discloses a window assembly comprising a window frame (16, 15-both sides, and 14), a jamb pocket portion (24 and 39-both sides), a retractable mesh screen (26) rolled onto a spring-biased cassette (column 2, lines 10-14) integrally contained within the jamb pocket (24 and 39-both sides), a T-shaped handle (28) extending along the bottom portion of the screen (26) and guided along jamb pocket portion grooves (39) thereby providing parallelism as the screen (26) is biased to a closed position. Morgan ('295) fails to disclose the assembly mounted within a jamb and tracks along header and sill portions, i.e., horizontally sliding. Kramer ('890) discloses a horizontally sliding retractable screen extending from a jamb and guided along tracks (42 and 44) within sill and header

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portions. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the assembly of Morgan ('295) with header and sill portions (i.e., horizontally sliding assembly) as taught by Kramer ('890) since a horizontally sliding assembly allows one to reach a first end of the assembly to move the screen between an open and closed position. With respect to claims 32, 33 and 49-50, it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the screen of Morgan to be formed of fiberglass or vinyl coated substrate since fiberglass or vinyl coated substrate is lighter and cheaper to manufacture and metal screen mesh, fiberglass screen mesh, and vinyl coated substrate are art equivalent.

Applicant's arguments with respect to claims 19-57 have been considered but are not deemed persuasive. The applicant's arguments are not clearly understood by the Examiner. It appears that the applicant is trying to claim apparatus claims so that the invention would not be "infringed" by builders and/or window companies, yet the applicant is relying on process/method steps to read over the art of record. Furthermore, the applicant argues these methods steps as being patentable over the art of record. In product-by-process claims, the process is given little to no patentable weight (see MPEP). Therefore, the applicant's arguments, which are directed towards the process, fail to overcome the art of record.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry Redman
Primary Examiner
Art Unit 3634

/Jerry Redman/
Primary Examiner, Art Unit 3634